

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

RLI INSURANCE COMPANY,)
Plaintiff,)
v.) Civil Action No. 5:18-cv-00066
NEXUS SERVICES, INC., et al.,) By: Michael F. Urbanski
Defendants.) Chief United States District Judge

ORDER

This matter is before the court on a motion filed by plaintiff RLI Insurance Company (“RLI”) on July 15, 2021, entitled Plaintiff’s Renewed Request for Appointment of Third Party to Perform Specific Acts Ordered Under Rule 70(a) or Alternatively a Receiver Under Rule 66 and For Sanctions. ECF No. 694. The court held two hearings on this motion on July 15, 2021, and August 10, 2021. The court entered an order addressing in part RLI’s motion on August 12, 2021. Order, ECF No. 721.

RLI’s July 15, 2021 motion has been supplanted by a later motion seeking the same remedy on November 2, 2021. RLI Insurance Company’s Renewed Motion to Enforce Final Order and for Contempt Sanctions, ECF No. 758.

In each motion, RLI asks the court to appoint a third party to do what Nexus Services, Inc., and its related entities, (“Nexus”) have not done—deposit collateral security for the immigration bonds issued by RLI as required by §§ A.1 and A.2 of the court’s October 23, 2020 Order.¹ Order, ECF No. 585. Nexus has resisted RLI’s efforts to appoint a third party

¹ The October 23, 2020 Order was affirmed by published decision of the Fourth Circuit Court of Appeals on January 27, 2022. USCA Memorandum Opinion and Judgment, ECF Nos. 764, 765.

to deposit the collateral under Rule 70 or a receiver under Rule 66 of the Federal Rules of Civil Procedure.

There has been substantial briefing on the renewed motion, and the court held an additional evidentiary hearing on February 24, 2022. Nexus requested the opportunity to file additional briefing following the February 24, 2022 evidentiary hearing, and the court entered an order on February 24, 2022 establishing a briefing schedule. Order, ECF No. 773.

In any event, the two pending RLI motions, ECF Nos. 694 and 758, seek the same relief. As RLI's renewed motion pending at ECF No. 758 reflects the current posture of this case and addresses developments occurring this past summer and fall, the court **DIRECTS** the Clerk to **ADMINISTRATIVEY CLEAR** the earlier filed motion, ECF No. 694, as it has been supplanted by RLI's renewed motion at ECF No. 758.

The court will rule on RLI's renewed motion, ECF No. 758, following filing of any additional evidence and legal argument on RLI's motion to appoint a third-party under Fed. R. Civ. P. 70 or a receiver under Fed. R. Civ. P. 66 as a remedy for Nexus's failure to deposit the collateral security required by §§ A.1. and A.2. of the October 23, 2020 Order. Also remaining pending awaiting the filing of additional evidence and legal argument is the court's ruling on the Show Cause Order issued by Magistrate Judge Joel. C. Hoppe on December 16, 2021, ECF No. 761, and RLI's outstanding request for attorney's fees, ECF Nos. 744 and 745.

It is so **ORDERED**.

Entered: February 28, 2022


Michael F. Urbanski
Chief U.S. District Judge
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Michael F. Urbanski
Chief United States District Judge